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A Welcome to New Members of the Bar

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*A WELCOME TO NEW MEMBERS OF THE BAR.

Mr. Chairman, and our guests, the newly enrolled members of the St. Louis Bar:

It is a happy idea of the St. Louis Bar Association to extend a fraternal greeting to new members enrolled at the Bar of our local courts. And I thank your Committee in charge of that subject for the honor of appointing me to discharge that pleasant duty on this occasion. I trust this proceeding may grow into a regular custom of our Association, add a sort of social festivity to our programmes and furnish opportunity for some activity on the part of patriarchs, who fain would linger awhile in the field before passing into the limbo of oblivion. To me, this occasion recalls the early days after the organization of our Association, when we had quite active social features in our proceedings. We had bar banquets on slight provocation; when Judges left the bench, and when they came on. We had meetings in the court rooms when members passed away; frequently attending funeral

*An address to a group of new members of the Bar of the City of St. Louis by Shepard Barclay, formerly Chief Justice of the Supreme Court of Missouri, March 9, 1925, at a special meeting of the Bar Association called for that purpose.

services in a body. In those days it was the custom for the Circuit Judges to take lunch together daily, where any doubtful or interesting points of trials in progress were discussed.

Today we welcome the new members of our Bar with the oldtime fraternal feeling. It is a pleasure to add, that I especially welcome them to that most delightful phase of our life as lawyers, the fellowship of the Bar, keeping alive that youth of the heart which is freshened in human sympathy and nourished by helpfulness to others.¹

Those leaders of the Bar of fifty years ago were models of helpfulness to their juniors and live in imperishable pictures of kindness and affection. The sense of fellowship in our profession then was strong, and helpful to the beginners.

STUDY THE HISTORY OF THE BAR.

To every man entering the bar, let me strongly urge a study of the history of the Bar and of the Judges of our State as a helpful guide to interpret the law of Missouri and its development. The changes and development of recent years are best understood by a knowledge of the evolution of our laws.

BUILDING OF CHARACTER.

The lessons to be drawn from the lives of the pioneers in our profession in this State are full of inspiration. The best influence of the study and proper understanding of the law and of the lives of its exponents on the Bench is in the help it gives to the formation of a lofty and noble character, which

1. Here the speaker recounted some incidents of his early days in the association with the older members, Messrs. S. T. Glover, M. L. Gray, Jas. J. Lindley.

is a far better acquisition than any amount of mere learning. This suggestion is beautifully exemplified by the advice given by Mr. Justice Story to a young lawyer. It is not often referred to in these later days, so I venture to repeat it here:

ADVICE TO A YOUNG LAWYER

“Whene’er you speak, remember every cause
Stands not on eloquence, but stands on laws;
Pregnant in matter, in expression brief,
Let every sentence stand with bold relief;
On trifling points, nor time nor talents waste.
A sad offense to learning and to taste;
Nor deal with pompous phrase, nor e’er suppose
Poetic flights belong to reasoning prose;
Loose declamation may deceive the crowd,
And seem more striking as it grows more loud;
But sober sense rejects it with disdain,
As naught but empty noise, and weak as vain.
The froth of words, the school-boy’s vain parade
Of books and cases—all his stock in trade—
The pert conceits, the cunning tricks and play
Of low attorneys, strung in long array,
The unseemly jest, the petulant reply,
That chatters on, and cares not how or why,
Studious, avoid unworthy themes to scan,
They sink the Speaker and disgrace the Man.
Like the false lights by flying shadows cast,
Scarce seen when present, and forgot when past.
Begin with dignity; expound with grace
Each ground of reasoning in its time and place:

Let order reign throughout; each topic touch,
Nor urge its power too little or too much,
Give each strong thought its most attractive view,
In diction clear, and yet severely true.
And, as the arguments in splendor grow,
Let each reflect its light on all below.
When to the close arrived, make no delays
By petty flourishes or verbal plays,
But sum the whole in one deep, solemn strain,
Like a strong current hastening to the main."
"Be brief, be pointed; let your matter stand
Lucid in order, solid, and at hand;
Spend not your words on trifles, but condense;
Strike with the mass of thought, not drops of sense;
Press to the close with vigor, once begun;
And leave (how hard the task!)—leave off when done.
Who draws a labored length of reasoning out,
Puts straws in line for winds to whirl about,
Who drawls a tedious tale of learning o'er
Counts but the sands on ocean's boundless shore.
Victory in law is gain'd, as battles fought,
Not by the numbers, but the forces brought.
What boots success in skirmish or in fray,
If rout and ruin following close the day?
What worth a hundred posts maintained with skill,
If, these all held, the foe is victor still?
He who would win his cause, with power must frame
Points of support, and look with steady aim;
Attack the weak, defend the strong with art,

Strike but few blows, but strike them to the heart;
All scatter'd fires but end in smoke and noise,
The scorn of men, the idle play of boys.
Keep, then, this first great precept ever near:
Short be your speech, your matter strong and clear,
Earnest your manner, warm and rich your style,
Severe in taste, yet full of grace the while;
So may you reach the loftiest heights of fame.
And leave, when life is past, a deathless name."

Lyrics, p. 151.

Justice *Story's* advice is not only good for young lawyers, but for all lawyers. You notice that it lays emphasis on character and conduct as being corner-stones on which to build the fabric of honorable life in our profession. Today there is as much force as ever in that advice. The influence of our fellow lawyers and a sturdy spirit of honor in maintaining the ideals of the Bar constitute the bonds of that union which makes Bar Associations helpful to us all. We should not surrender the comradeship and intimacy of social life among our members by yielding to the commercial spirit of today. We are a profession, and not a trade. The spiritual aspects of our brotherhood are worth cherishing and preserving, and social intimacy among us we must continue to cultivate and improve.

The English Bar has a history of leadership in every enlightened effort to develop and maintain the liberties of the people. Much of the power and influence of the Bar of England can be traced to the close intimacy and fellowship between its members and between the Bench and Bar. It has been and is still the custom for all of them to meet often in

social intercourse—to dine together. Formerly they traveled the circuit in the body. That was likewise the custom in Missouri in the pioneer period, sixty years ago. Some patriarchs of that period have been my official colleagues, in days gone by. They gave most fascinating accounts and many amusing incidents of the close companionship in the Bench and Bar of that time. The British Inns of Court still maintain an intimacy between the Bar and the Bench by frequent social meetings, dinners and festivities which cement their friendship. Close personal fellowship inspires confidence and regard of one's associates, develops the best, and improves the weaker points of professional character.

So today, we have the same needs. The commercial spirit of our age should not dim or destroy the brotherhood of the Bar. The bond of a great mission should hold the members of our profession together, as exponents of precepts of right and reason which are part of our national life and character. Our republican institutions rest for their perpetuity on the idea that this is a government of *laws*. Every person who is invested with power should be filled with reverence for the laws and for the limitations which those laws impose. The Courts should be most willing to keep within the domain of their constitutional authority; and thus keep away all thought of a remedy for their excess of authority. If the fellowship of the Bar and the intimacy of the Bench and Bar are close, their mutual influence on each other's conduct will be more helpful and direct, their power for good upon the action of their fellow citizens will be enlarged, and their part in shaping the destinies of our country will continue, as in the days of old when members of the Bar were foremost in every

achievement to maintain the cause of national liberty. One of the sublime thoughts of national freedom, in a country where the people make their own laws under a Constitution such as ours, is found in the inscription in the Court House at Worcester, Mass.:

“Obedience to Law is Liberty.”

That statement includes the essential American idea that the restraints or limitations upon our absolute freedom are part of the assurance of enjoyment of our liberty, within the range which the law accords thereto. Thus the protection of the liberty of each citizen is guaranteed by that accorded to the reciprocal liberty of his fellow citizens.

The conservative spirit of American law and its tolerance and protection of the rights of individuals and of minorities can be preserved by the influence of the Bar. The fellowship of the Bar, therefore, is more than a pleasure. It is a duty as well. In it is found a helpful inspiration to study and a due appreciation of the free institutions of our country. I hope to encourage those objects at all times. I rejoice that you have given me here the opportunity to say a word to advance its purposes.

HARDSHIPS OF THE NOVITIATE.

The lot of the beginner in our profession is more difficult than it was 50 years ago. The variety of subjects of study has immensely increased.

But live men will always find the path to success, without sacrifice of any of the traditions of our profession.

Literary exercises, writing for the press and for magazines, and appointments by the Court, where the same are

appropriate, afford opportunities to acquire ease of writing and experience in trials which are desirable.

Do not be discouraged by the bumps you will encounter on the road to success! Hardships mould character. The stoutest hearts must expect bitter experience, now and then. Let me tell you of one instance reported by Irwin Russell, many years ago, which, however, did not daunt him in his progress:²

“THE FIRST CLIENT.”

John Smith, a young attorney, just admitted to the Bar,
Was solemn and sagacious—as young attorneys are;
And a frown of deep abstraction held the seizin of his
face,
The result of contemplation of the rule in Shelley’s Case.

One day in term time Mr. Smith was sitting in the court,
When some good men and true of the body of the county
did on their oath report,
That heretofore, to wit, upon the second day of May.
A. D. 1877, about the hour of noon, in the county and State
aforesaid, one Joseph Scroggs, late of said county,
did then and there feloniously take, steal, and carry
away

One bay horse of the value of fifty dollars, more or less
(The same then and there being of the property, goods,
and chattels of one Hezekiah Hess),
Contrary to the statute in such case expressly made

2. Irwin Russell, Scribners 1877.

And provided; and against the peace and dignity of the State wherein the venue had been laid.

The prisoner, Joseph Scroggs, was then arraigned upon this charge,

And plead not guilty, and of this he threw himself upon the country at large;

And, said Joseph being poor, the Court did graciously appoint

Mr. Smith to defend him—much on the same principle that obtains in every charity hospital where a young medical student is often set to rectify a serious injury to an organ or a joint.

The witnesses seemed prejudiced against poor Mr. Scroggs;

And the District Attorney made a thrilling speech, in which he told the jury that if they didn't find for the State he reckoned he'd have to 'walk their logs.'

Then Mr. Smith arose and made his speech for the defense,

Wherein he quoted Shakespeare, Blackstone, Chitty, Archbold, Joaquin Miller, Story, Kent, Tupper, Smedes and Marshall, and many other writers; and everybody said they 'never heered sich a bust of eloquence.'

And he said: 'On this hypothesis, my client must go free';

And: 'Again, on this hypothesis, it's morally impossible that he could be guilty, don't you see?'

Again: 'Then, on this hypothesis, you really can't convict';

And so on, with forty-six more hypotheses, upon none of which, Mr. Smith ably demonstrated could Scroggs be derelict.

But the jury, never stirring from the box wherein they sat,

Returned a verdict of 'guilty'; and his Honor straightway sentenced Scroggs to a three-year term in the penitentiary, and a heavy fine, and the costs on top of that;

And the prisoner, in wild delight, got up and danced and sung,

And when they asked him the reason of this strange behavior, he said: 'It's because I got off so easy; for, if there'd ha' been a few more of them darned hypotheses, I should certainly have been hung.' "

CONSERVATIVE INFLUENCE

The legal profession is the most conservative influence in modern life, yet its members have, in all ages, been leaders in the battles for human liberty. The tendency of our latest innovations and experiments in government is toward profuse legislation. Many thoughtful men of experience in our profession complain that there is too much law, or too much crude and experimental law; but the practitioner must keep up with it, such as it is.

You must have a *locating* knowledge of the statutes—the written law, of which many experienced lawyers are neglectful.

BROADENING STUDIES.

Above all other suggestions, let me advise a steady course of reading to broaden your views and understanding of law, as a great inspiration to its interpretation. We have no special course of training in our law schools for those who are, or who would prepare to be, Judges. Yet a line of study to broaden the appreciation of the meaning of law is helpful indeed, and would strengthen the force and usefulness of every lawyer and Judge. It would tend to diminish any undue importance claimed for technicalities; and inspire a more enlightened interpretation of their place in the administration of justice.

SOME BOOKS ON THIS LINE

Let me venture to name a few books which I consider in this category.³

Such books will be much more than springs of learning when you know them well. They will help to build up the best there is in you; they will develop your ethical view of law, its purposes and meaning. For the noblest feature in the dream that you may picture in choosing this profession is that you are laying a foundation for the training of your moral character.

The study of law and of its application to human affairs, will, day by day, give a more abundant return in its uplifting

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3. 1. Maine's *Ancient Law*.
 2. All of Maitland's and Pollock's books on *Historical Jurisprudence*.
 3. Herring's "*Struggle for Law*."
 4. Holmes, "*On the Common Law*."
 5. Rutherford's *Institutes*.
 6. Spence, "*Laws and Political Institutions*."
 8. All books available on the *Philosophy of Law* (Amos, Miller, Lee, Stirling, Watt, Kant, Puchta and Hastie.)

influence on your spiritual nature than can be measured by any standard of pecuniary success you may achieve. The aid you can extend to those in trouble, the solace you can offer to vindicate the calls of justice, are returned to you ten-fold in the gradual strengthening of your own moral principles, if you are a faithful and loyal minister of the law which you expound and apply. If that most precious and delicate of all human trusts, its administrations in a court, should ever be confided to your keeping, you will realize better than ever otherwise, how sweet a Mother Justice is; rewarding a faithful son and servitor with her richest blessings of growth and development, while he renders his active homage in the daily routine of her cause.

Whatever the area of your efforts as a lawyer, you will meet temptations now and then which may test the fibers of your moral structure. If the law has become a part of your being, it will be a sure fortress against such danger.

A man is what he records himself to be by his acts and his career.

All the allurements of gain cannot swerve from his principles one who clearly understands that the value of the law as a vocation is in its teachings of Truth and Honor.

The scoffers who sometimes indulge in jests at our expense are but a trivial fragment of the people who, in Missouri, have solemnly committed to the legal profession exclusively the administration of justice in the courts, and have ordained that only those "learned in the law" shall have place in the highest seats of judgment, that a great trust is

thus imposed on the honor and integrity of our profession! We must do our part, in our day, and you in your day, to remain worthy of that trust.

But the worthy lawyer, faithful to his trust and to his teachings, has no fear of any ordeal. If our procedure is deficient, he can be active for its reform. If our laws, as interpreted, are tinged with injustice, he can help to have them humanized and infused with better spirit. In doing your part toward keeping our profession responsive to the appeal of ethical justice, within the rules of law, remember that it is the boast of our American system to hear both sides of every dispute: to be tolerant of differences of opinion; to accord the same liberty of opinion to your neighbor that you ask for yourself; and to submit to the rule of the majority of the people, expressed in a constitutional manner. In the issues before the American people, which involve our profession and its record, you will not flinch from maintaining your honest opinions as a lawyer. Let us hope you will never fail to exemplify its noble ideals! But, withal, let me express a broader hope for each and all of you; namely, that your careers may not merely be brilliant, useful and honorable, but that they may be happy as well.

The education of yourself, which is now before you as one of the problems of your life, should carry an idea which I wish might be expanded to include all the fields of education. That idea is this: that the purposes of true education should be two-fold: first, to impart the knowledge necessary to make the student self-supporting, so as to be able to earn

his own livelihood and never be a burden to others; and secondly, to give him the means of happiness while so doing, by forming a noble and worthy character.

The lesson of that precept cannot be too widely spread. It is especially emphatic to those who have sought their vocation in the law.

In handing to the beginner in our profession, his chart and compass, with our best wishes, we should also give him a promise of happiness in using them. To study the higher phases of the law, to administer each duty fearlessly and fairly, to keep the ideals of justice bright and without blemish, to become the near associate of the masters of the law through its literature, to feel the influence of the daily appeal to ethics and sound reason in its administration, and, above and best of all, to enjoy the comradeship of those choice spirits who gather in the walks of our profession—these are some of the elements of the happiness of our calling which are parts of your just due. Such happiness of the lawyer, in adjusting the principles of eternal justice to human affairs, whether he be entrusted with the mighty power of the State in determining personal rights in her courts, or whether he expounds those principles of the bar, is not excelled in any other field of human endeavor.

As a closing word, let me warn against magnifying mere learning beyond its true value! Try to keep in view as well the spiritual things which comfort and sustain our frail humanity in its earthly pilgrimage of probation! Do not lose sight of the Light that never fails! Cherish the Faith you may have, as a support and help to the precepts of the law you serve!

Schiller, the great German poet, in his lines on "Light and Warmth," has (with more skill than a physician) cautioned against some forms of heart failure, in verse, of which allow me a rather free translation:

Alas! The light of Truth may burn
And yet no warmth impart.
Well be to those who Wisdom learn
And pay not with the heart!
So, for thy happiness, unite
The dreamer's warmth to worldly light!

One of the greatest of writers on the jurisprudence which we have received from our English ancestors, has given evidence of his appreciation of the beauty found in the spiritual inspiration of our profession and of his own devotion to its immortal principles, by formulating an invocation which contains much food for your thought, as faithful followers in the path of learning which he illuminated so well by his "*Commentaries on the Law of England.*" Then let me recall, the words of *Sir Wm. Blackstone*, one of the distinguished Judges of England, in his

LAWYER'S PRAYER

"Ordain'd to tread the thorny ground,
Where very few, I fear, are sound;
Mine be the conscience void of blame,
The upright heart, the spotless name,
The tribute of the widow's prayer,
The righted orphan's grateful tear!
To Virtue and her friends a friend,

Still may my voice the weak defend!
Ne'er may my prostituted tongue
Protect the oppressor in his wrong;
Nor wrest the spirit of the laws,
To sanctify the villain's cause!
Let others, with unsparing hand,
Scatter their poison through the land,
Enflame dissension, kindle strife,
And strew with ills the path of life;
On such her gifts let Fortune shower,
Add wealth to wealth and power to power
On me, may favoring Heaven bestow
That peace which good men only know.
The joy of joys by few possess'd,
The eternal sunshine of the breast!
Power, fame, and riches I resign—
The praise of honesty be mine;
That friends may weep, the worthy sigh,
And poor men bless me when I die!"

4. Lyrics, p. 16.